

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket No. PRM-50-79]

Lawrence T. Christian, et. al.; Receipt of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; Notice of receipt.

SUMMARY: The Nuclear Regulatory Commission (NRC) is publishing for public comment a notice of receipt of a petition for rulemaking, dated September 4, 2002, which was filed with the Commission by Lawrence T. Christian, et. al. The petition was docketed by the NRC on September 23, 2002, and has been assigned Docket No. PRM-50-79. The petition requests that the NRC amend its regulations regarding offsite emergency plans for nuclear power plants to insure that all day care centers and nursery schools in the vicinity of nuclear power facilities are properly protected in the event of a radiological emergency.

DATE: Submit comments by (Insert date 75 days following publication in the *Federal Register*). Comments received after this date will be considered if it is practical to do so, but assurance of consideration can only be given to comments received on or before this date.

ADDRESSES: Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff.

Deliver comments to: 11555 Rockville Pike, Rockville, Maryland between 7:30 a.m. and 4:15 p.m. on Federal workdays.

For a copy of the petition, write to Michael T. Lesar, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U. S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

You may also provide comments via the NRC's interactive rulemaking website at <http://ruleforum.llnl.gov>. This site allows you to upload comments as files in any format, if your web browser supports the function. The petition and any public comments received are available on the site. For information about the interactive rulemaking website, contact Carol Gallagher at (301) 415-5905 or via e-mail at CAG@nrc.gov.

The petition and copies of comments received may be inspected, and copied for a fee, at the NRC Public Document Room, (first floor) 11555 Rockville Pike, Rockville, Maryland. These same documents may be accessed via the NRC's Agencywide Documents Access and Management System (ADAMS) on the Internet at <http://www.nrc.gov/reading-rm/adams.html>. The ADAMS accession number for the petition is ML022590350.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Telephone: 301-415-7163 or Toll-free: 1-800-368-5642. E-mail: MTL@nrc.gov.

SUPPLEMENTARY INFORMATION:

Background

The Nuclear Regulatory Commission received a petition for rulemaking dated September 4, 2002, submitted by Lawrence T. Christian, et. al. (the petitioners). The petition was docketed by the NRC on September 23, 2002, and assigned Docket No. PRM-50-79.

The Petitioners

Lawrence T. Christian submitted a letter and attachments stating the substance of the petition. Mr. Christian identified himself as a resident of the evacuation zone around the Three Mile Island Nuclear Power Station (TMI) and as the father of two preschool-aged children, including a four-year-old daughter who attends a nursery school within eyesight of TMI. Attached to the petition are pages bearing the signatures of over 3,000 public co-signers. Most of the co-petitioners indicated that they were residents of the State of Pennsylvania.

The Petitioners' Interest in the Requested Action

According to the petitioners, there are currently no Federally-mandated requirements specifically designed to protect daycare centers and nursery schools located in the evacuation zones around nuclear power stations. They believe that this regulatory deficiency puts preschool children at risk in the event of a nearby radiological accident and undermines FEMA requirements that offsite plans adequately protect the public health and safety.

The petition states that Mr. Christian became aware of this situation after he contacted several daycare centers and nursery schools in his York County, Pennsylvania, community, and learned that none of them has an adequate emergency evacuation plan in case of a radiological emergency at the nearby TMI plant. Mr. Christian conducted an informal survey of local

daycare and nursery school directors, and learned that most of them do not know what to do in case of a radiological emergency. Mr. Christian found that most daycare and nursery school directors in his area:

1. Do not believe that they have been given adequate information or training to handle an evacuation of children in their care during a radiological emergency.
2. Do not have copies of radiological emergency evacuation plans for their localities.
3. Are frequently uncertain or mistaken as to how an evacuation of their own institution would proceed. Some directors assume that parents would pick up their own children; others assume that center or school staff would have to transport the children, but have no clear plan for executing a staff-run evacuation. Some mistakenly believe that York County would provide emergency bus service and relocation centers if an evacuation were necessary.
4. Do not know where children would or should be taken in the event of an emergency evacuation in response to a radiological accident.
5. Do not know whether the children in their charge would be transported in approved child-safety seats during an evacuation.
6. Assume that, if no organized mass transportation were provided for the children in their charge, daycare center and nursery school employees would be required to stay in the workplace until every child had been safely picked up by their parents.
7. Believe that the question of evacuation plans for their institutions needs to be addressed in a systematic way.

The petition states that Mr. Christian reported his findings to the York County Board of Commissioners and the York County Director of Emergency Management, expressing his alarm at this gap in emergency planning. Mr. Christian received responses from the York County Director of Emergency Management and the Executive Director of York County's Department of Emergency Services indicating that Pennsylvania State law did not require licensed daycare

centers and nursery schools to plan for radiological emergencies, and that the county did not have the authority to mandate such planning. Mr. Christian was advised by York County emergency management officials to ask municipal government officers in his community for emergency planning assistance concerning local daycare and nursery schools.

According to the petition, municipal government officials advised Mr. Christian to have the director of his daughter's nursery school work with Exelon Corporation, which owns and operates TMI, to develop an evacuation plan for the school. The school director requested Exelon's assistance, but had received no response after 30 days. Moreover, the school director informed Mr. Christian that her institution did not have the resources to arrange for bus or van transportation for students in the event of an emergency, and that, should an accident occur at TMI, the school would have to request that parents pick up their children individually.

The petitioners note that Federal Emergency Management Agency (FEMA) regulations pertaining to Radiological Emergency Readiness Planning (RERP) mandate that emergency offsite plans protect the public health and safety, and they stress that preschool-aged children are members of the public covered by that mandate. The petitioners believe that voluntary, ad hoc emergency evacuation plans that rely on parents to enter an evacuation zone to pick up preschool students during a radiological emergency are inadequate to protect the health and safety of the children at risk. The petitioners claim that Federally-required RERPs already mandate that public and private elementary, middle, junior, and high schools located in evacuation zones around nuclear power plants be provided with designated relocation centers, designated emergency transportation, rosters of emergency bus drivers, and educational materials about radiological emergency procedures. These institutions are also required to undergo state of readiness checks and must be included in local radiological emergency preparedness exercises. The petitioners contend that because no corresponding standard measure of adequate protection currently exists for daycare centers and nursery schools in the

vicinity of nuclear power facilities, Federal, state and county emergency plans do not properly take these preschool institutions into account.

The Petitioners' Request

The petitioners request that the NRC immediately establish a standard measure of adequate protection by creating new rules requiring that emergency planning for daycare centers and nursery schools located in evacuation zones be included in the offsite emergency plans of all NRC nuclear power facility licensees. The petitioners request that the NRC amend its regulations to insure that all children attending daycare centers and nursery schools within the evacuation zone are:

1. Assigned to designated relocation centers established safely outside the evacuation zone.
2. Provided with designated transportation to relocation centers in the event of an emergency evacuation.
3. Transported in approved child-safety seats that meet State and Federal laws as they pertain to the transportation of children and infants under 50 pounds in weight or 4'9" in height.

The petitioners also request that the following be mandated by NRC regulations:

4. The creation and maintenance of working rosters of emergency bus drivers and back-up drivers for nursery school and daycare center evacuation vehicles, and the establishment of a system for notifying these individuals in the event of a radiological emergency. These rosters should be regularly checked and updated, with a designated back-up driver listed for each vehicle and route.

5. Notification of emergency management officials by individual preschools as to the details of each institution's radiological emergency plan.
6. Annual site inspections of daycare centers and nursery schools within the evacuation zone by emergency management officials.
7. Participation of daycare centers and nursery schools within the evacuation zone in radiological emergency preparedness exercises designed to determine each institution's state of readiness.
8. Creation of identification cards, school attendance lists, and fingerprint records for all children who are to be transported to a relocation center, to insure no child is left behind or is unable, due to age, to communicate his or her contact information to emergency workers.
9. Development by emergency management officials of educational materials for parents informing them what will happen to their children in case of a radiological emergency, and where their children can be picked up after an emergency evacuation.
10. Stocking of potassium iodide (KI) pills and appropriate educational materials at all daycare centers and nursery schools within the evacuation zone.
11. Radiological emergency preparedness training for all daycare center and nursery school employees within the evacuation zone.
12. Listing of designated relocation centers for daycare centers and nursery schools in area phone directories so that parents can quickly and easily find where their children will be sent in case of a radiological emergency.
13. Establishment of toll-free or 911-type telephone lines to provide information about radiological emergency plans and procedures for daycare centers and nursery schools within the evacuation zone.

14. Creation of written scripts for use by the local emergency public broadcast system that include information about evacuation plans and designated relocation centers for daycare centers and nursery schools.

The Petitioners' Justification

In support of their request, the petitioners detail their reasons for asking the NRC to change its regulations to include the aforementioned protective measures aimed at securing the health and safety of preschoolers in evacuation zones surrounding nuclear power plants. The petitioners stated reasons for requesting that the NRC amend its rules to mandate these emergency planning measures are as follows:

Establishment of Designated Relocation Centers.

The petitioners note that FEMA emergency planning regulations require that the health and safety of the general public be protected in the event of a radiological accident at a nuclear power plant. Preschoolers are part of the general population and their well-being must be provided for. The petitioners claim that the designation of emergency relocation centers for all elementary, middle school and high school students is already standard practice, and contend that the establishment of such centers for preschoolers is no less vital. Because the thyroid glands of young children are highly susceptible to damage by exposure to radiation, the petitioners stress that children attending daycare centers and nursery schools in the evacuation zone should be moved to safety as quickly and as efficiently as possible. If parents are forced to backtrack into the evacuation zone to fetch their preschool-aged children and carry them to safety one-by-one, frantic parents will clog evacuation routes. The petitioners conclude that

radiological emergency plans should provide for the mass evacuation of children from daycare centers and nursery schools located in the evacuation zone to relocation centers situated at a safe distance from the nuclear power facility.

Provision of designated transportation; creation of working rosters of emergency bus drivers.

The petitioners note that most daycare centers and nursery schools currently have no access to public school buses or school bus drivers. If frantic parents must drive personal vehicles into the evacuation zone to pick up their children during a radiological emergency, evacuation routes will be clogged with private cars, the evacuation will be impeded, and the health and well-being of preschool children will not be adequately protected. Therefore, the petitioners conclude that the NRC should require that offsite emergency plans provide for designated busses or vans, manned by designated emergency drivers, to transport children from daycare centers and nursery schools located in the evacuation zone to designated relocation centers.

Use of assigned and installed, approved child-safety seats in the evacuation of preschoolers.

The petitioners note that newborns and infants cannot safely be placed on a standard bus seat and transported out of the evacuation zone. Unrestrained children could roll or fall off the seats and be injured or killed en route to designated relocation centers. Federal law requires all children under 50 lbs or under the height of 4'9" to be placed in federally-approved child safety seats when riding in motor vehicles. The use of approved child-safety seats is the only safe and legal way to transport small children. The petitioners conclude that NRC regulations should require that infants and young children being evacuated during a radiological emergency be properly secured in approved child safety seats.

Notification to emergency management officials; annual site inspections; inclusion of daycare centers and nursery schools in radiological preparedness exercises.

The petitioners maintain that these measures are necessary to insure that daycare centers and nursery schools properly comply with the requested regulations and implement the suggested emergency planning provisions.

Use of identification cards, school attendance lists and fingerprinting to keep track of children during an emergency evacuation.

The petitioners note that most children under the age of three do not know their parents' legal names, but will simply identify them as "Mommy" or "Daddy". Preschool children are also typically unable to state their home address or phone number. Young children therefore have no effective means of communicating their parents' names or contact information to teachers, caregivers, or emergency workers. The petitioners conclude that identifying and tracking young children through the use of ID cards, school attendance lists, and fingerprinting is necessary to ensure that no preschool-aged child is left behind in a radiological emergency.

Preparation of educational materials for the parents of preschoolers.

The petitioners contend that such materials are necessary in order to properly inform parents about procedures for evacuating their preschool-aged children from the danger zone in case of a radiological emergency.

Stocking of KI tablets and the preparation of relevant educational materials for the parents of preschoolers.

The petitioners note that preschool-aged children are particularly susceptible to thyroid damage due to exposure to radiation. Since the ingestion of KI protects against this damage,

the petitioners contend that KI should be stocked by daycare centers and nursery schools in the evacuation zone for distribution to the children their charge in case of radiological emergency. However, because parents may be unaware of a young child's allergy to iodine, the petitioners believe that daycare centers and nursery schools should prepare for possible future radiological emergencies by having parents sign release forms giving daycare and nursery school workers standing permission to administer KI to their children, in the proper children's dose, in case of radiological emergency.

Radiological emergency preparedness training for employees of daycare centers and nursery schools.

The petitioners maintain that radiological emergency preparedness training is necessary to equip employees of daycare centers and nursery schools to properly respond in case of a radiological accident.

Phone listings for designated relocation centers assigned to local daycare centers and nursery schools; toll-free and 911 information lines.

The petitioners claim that many parents are not acquainted with, or may not even have access to information about emergency procedures for evacuating their preschool-aged children from the danger zone following a radiological accident. Moreover, even if parents are well-informed, in the event of a radiological emergency, someone other than a parent (e.g., a grandparent, neighbor or friend) may be called upon to pick up a child from a designated relocation center. These individuals will need quick access to information about emergency plans and designated relocation centers for local preschools. Finally, the general public should have access to this information. The petitioners conclude that dedicated information lines and

easy-to-find phone listings should be set up in order to avoid confusion in case of an emergency.

Creation of written scripts for the public emergency broadcast system which include information about emergency plans and designated relocation centers for daycare centers and nursery schools.

The petitioners believe that, during an emergency, parents might panic if they cannot locate their children and do not have timely information about their movements in the event of an evacuation. The emergency broadcast system could be used to inform parents that their preschool-aged children have left their buildings and are en route to designated relocation centers. The petitioners contend that this will free parents to redirect their efforts toward escaping the danger zone themselves, rather than further exacerbating traffic problems by trying to move back into the evacuation zone to fetch their children from daycare centers or nursery schools. Finally, the petitioners say, the general public should have access to such information during a radiological emergency. The petitioners conclude that the public emergency broadcast system should prepare to disseminate information about the evacuation of daycare centers and nursery schools in the event of a radiological accident.

Specialized evacuation needs of preschool-aged children.

The petitioners also offer a statement in support of their request which focuses on the specialized evacuation needs of preschool-aged children. They note that very young children are more difficult to safely transport than school-aged children and would require more and different kinds of care from emergency workers. The petition makes the following points in this connection:

1. Most children under the age of three have no effective way of communicating their parents legal names, but identify them only as “Mommy” and “Daddy”.

2. Most children under the age of three cannot tell you their home address or phone number, and therefore have no effective means of communicating their contact information.

3. Infants and newborns are usually unable to walk, so they are completely dependent on others for their safe relocation during an emergency evacuation.

4. Infants and newborns have special dietary and sanitary needs.

5. Infants and newborns can be easily injured if not properly handled, due to the weakness in their young spines and necks.

6. Preschool children must be transported in approved child-safety seats when being evacuated. Young children cannot ride unsecured in bus seats, as they might fall off and be injured or killed.

7. Unlike public school teachers, nursery school teachers and daycare center employees have little or no emergency evacuation training.

8. Infants, newborns, toddlers, and preschoolers are physically and emotionally dependent on adults for their overall well-being. During an emergency, these needs are greatly amplified. Planning and training for, and providing proper supervision of the emergency evacuation of such young children is a therefore a necessity.

9. Very young children have an especially high susceptibility to damage and health risks caused by radiation exposure. Because they are especially vulnerable, children in daycare centers and nursery schools require special protection in a radiological emergency.

The Petitioners’ Conclusion

The petitioners maintain that without new NRC requirements concerning offsite emergency plans no standard measure of adequate protection will ever exist for daycare centers and nursery schools located within evacuation zones surrounding nuclear power facilities. The petitioners note that a FEMA fact sheet concerning emergency radiological planning states that Federal law mandates that “plans and preparedness must be determined to adequately protect the public health and safety by providing reasonable assurance that appropriate measures can be taken offsite in the event of a radiological emergency.” The petitioners add that society as a whole has a moral obligation to make sure that every possible measure is in place to insure the safety and well-being of young children.

The petitioners contend that, if the NRC refuses to require the basic protections for preschoolers laid out in the petition, the agency will be perpetuating an improper implementation of FEMA regulations as they pertain to properly protecting the public in the event of a radiological emergency. The petitioners stress that the NRC’s principal duty is to safeguard the public, and maintain that, barring the adoption of the provisions requested by the petitioners, the NRC will be guilty of negligence in the fulfillment of its duty.

Dated at Rockville, Maryland, this 28th day of October, 2002.

For the Nuclear Regulatory Commission.

 /RA/
Annette L. Vietti-Cook,
Secretary of the Commission.